

LODGED	
CLERK, U.S. DISTRICT COURT	
09/07/2023	
CENTRAL DISTRICT OF CALIFORNIA	
BY:	DVE DEPUTY

UNITED STATES DISTRICT COURT
for the
Central District of California

FILED	
CLERK, U.S. DISTRICT COURT	
09/07/2023	
CENTRAL DISTRICT OF CALIFORNIA	
BY:	M.M. DEPUTY

United States of America

)

v.

)

GILMAR ABARCA

)

)

)

)

)

Case No. 8:23-mj-00457-DUTY

*Defendant(s)***CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of April 2022 in the county of Orange in the
Central District of California, the defendant(s) violated:*Code Section**Offense Description*18 U.S.C. § 2422(b)
Using a means of interstate commerce to persuade, induce, entice, or coerce
a minor to engage in criminal sexual activity.

This criminal complaint is based on these facts:

Please see attached affidavit.

 Continued on the attached sheet./s/ Davis Mendelsohn*Complainant's signature*Davis Mendelsohn, HSI-ICE*Printed name and title*
Judge's signature

Sworn to before me and signed in my presence.

Date: September 7, 2023City and state: Santa Ana, CaliforniaHonorable John D. Early, U.S. Magistrate Judge*Printed name and title*

AFFIDAVIT

I, Davis Mendelsohn, being duly sworn, declare and state as follows:

I. PURPOSE OF AFFIDAVIT

1. This affidavit is made in support of a criminal complaint against and arrest warrant for GILMAR ABARCA ("ABARCA"), date of birth [REDACTED], for a violation of 18 U.S.C. § 2422(b), using a means of interstate commerce to persuade, induce, entice, or coerce a minor to engage in criminal sexual activity (the "SUBJECT OFFENSE").

2. The facts set forth in this affidavit are based upon my personal observations, my training and experience, and information obtained from various law enforcement personnel and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested complaint and arrest warrant and does not purport to set forth all of my knowledge of or investigation into this matter. Unless specifically indicated otherwise, all conversations and statements described in this affidavit are related in substance and in part only, all amounts or sums are approximate, and all dates and times are on or about those indicated.

II. BACKGROUND OF AFFIANT

3. I have been a special agent with Homeland Security Investigations ("HSI"), the investigative component of the United States Department of Homeland Security's Immigration and Customs Enforcement, since January 2019. I am currently assigned to HSI's Office of the Resident Agent in Charge in Monterey, California. As part of my daily duties, I investigate violations

of federal laws related to the sexual exploitation of children. Prior to my employment with HSI, beginning in June 2016, I was a sworn investigator with the California Department of Motor Vehicles ("DMV"). While employed with the DMV, I conducted investigations related to a variety of criminal and administrative offenses.

4. Throughout my law enforcement career, I have received training on conducting criminal investigations, search and seizure laws, and writing probable cause affidavits. In 2017, I completed a 24-week-long basic police academy in California, and in 2019, I completed the Criminal Investigator Training Program and HSI Special Agent Training program, a total of 26 weeks of training, at the Federal Law Enforcement Training Center in Brunswick, Georgia. Since becoming a federal law enforcement officer, I have written probable cause affidavits in support of multiple federal search warrants and complaints for cases involving the sexual exploitation of children. I have also received specialized training in and participated in the investigation of cases involving the sexual exploitation of children.

III. SUMMARY OF PROBABLE CAUSE

5. In April 2022, a 16-year-old female (V-1) in Orange County, California, a county within the Central District of California, reported to law enforcement she had sex with an adult male named "Gilmar" multiple times. Investigators later identified "Gilmar" as Gilmar ABARCA, a then-21-year-old male from Buena Park, California, a city within the Central District of California. When investigators reviewed content on V-1's

laptop, they observed messages between ABARCA and V-1 through Discord, an online chatting application, where ABARCA and V-1 discussed meeting for sex. When investigators interviewed ABARCA, he admitted to having sex with V-1 multiple times.

**IV. TRAINING AND EXPERIENCE ON CHILD EXPLOITATION OFFENSES,
COMPUTERS, THE WORLDWIDE INTERNET COMPUTER COMMUNICATION
NETWORK, AND DEFINITIONS OF TERMS**

6. Based upon my training and experience in the investigation of the sexual exploitation of children, as well as on my conversations with others involved in these investigations, I know the following information:

a. Chat. The term "chat" means any kind of text communication over the Internet that is transmitted in real time from sender to receiver. Chat messages are generally short in order to enable other participants to respond quickly and in a format that resembles an oral conversation. This feature distinguishes chatting from other text-based online communications such as Internet forums and email.

b. Internet. The term "Internet" is defined as the worldwide network of computers -- a noncommercial, self-governing network devoted mostly to communication and research with roughly 500 million users worldwide. The Internet is not an online service and has no real central hub. It is a collection of tens of thousands of computer networks, online services, and single user components. In order to access the Internet, an individual computer user must use an access provider, such as a university, employer, or commercial Internet Service Provider, which

operates a host computer with direct access to the Internet.

c. Minor. Defined in 18 USC § 2256(1), a "minor" refers to any person under 18 years of age.

V. STATEMENT OF PROBABLE CAUSE

INITIAL REPORT BY V-1

7. On April 22, 2022, deputies with the Orange County Sheriff's Department (OCSD) were dispatched to a residence in Orange County, California, to obtain information regarding the sexual assault of V-1. Upon arriving, deputies spoke with V-1's mother, who stated she had discovered sexually explicit pictures and videos within Discord on V-1's laptop. V-1's mother stated one of the videos showed V-1 inserting an anal plug into her anus.

8. When a deputy spoke with V-1, she stated she had recently had consensual sexual intercourse two males, one of whom was named "Gilmar" (later identified as ABARCA). V-1 stated she and ABARCA communicated through Discord, an online chatting application, and that ABARCA had a Discord username of "Gungi." V-1 said she and ABARCA had sex approximately six times and that they also orally copulated each other. At the end of her statement, V-1 said the sexual acts were a cry for help. The deputy seized V-1's laptop for examination.

FOLLOW UP BY OCSD INVESTIGATOR

9. In April 2022, an investigator with OCSD reviewed screenshots he received of Discord conversations between Discord user "GungiGG" and V-1. In one message, after V-1 asked "GungiGG" for a picture of his driver's license as proof of who

he was, "GungiGG" sent V-1 a picture of ABARCA's driver's license.

10. In May 2022, the investigator obtained a state search warrant for the content of multiple Discord accounts, including Discord account "GungiGG." In reviewing the data produced by Discord pursuant to the search warrant, the investigator saw sexually explicit communications between ABARCA, who was using the "GungiGG" account, and V-1, as well as messages indicating ABARCA knew V-1 was a minor. For example:

a. On February 1, 2022, ABARCA asked V-1, "Are we gonna hookup? Or this just a platonic friendship?" When V-1 responded she was fine with whatever ABARCA wanted, ABARCA replied, "You fine with hooking up?" ABARCA clarified he meant "sex," then told V-1 he was "down."

b. On February 1, 2022, ABARCA asked V-1 if she liked older men, then stated, "You're 15 fucking a senior." V-1 told ABARCA she was 16 years old. ABARCA responded, "But imma be fucking you too so I'm even luckier," then acknowledged V-1's age by saying, "16 yeah."

c. On February 2, 2022, V-1 told ABARCA she was "sore from yesterday." When S-1 asked from what V-1 was sore, V-1 replied, "from fucking u." ABARCA then replied, "Yeah well it was worth it." ABARCA subsequently told V-1 kissing her was his favorite part, specifying, "Even more so then [sic] the sex (the sex was amazing though I loved that too) but the way you kissed me and just smiled."

d. On February 3, 2022, ABARCA told V-1 they were going to "walk to those boats" and that he was going to

"fuck" her there. When V-1 asked if that was illegal, ABARCA responded, "Fucking you is illegal."

e. On February 5, 2022, ABARCA asked V-1 when she was available. When V-1 stated she was free that night, ABARCA responded, "Anal tonight?" V-1 replied, "if u have lube," and ABARCA stated, "Hahah sure I'll get some," then added, "Plus your plug comes today." Based on my review of the OCSD investigation, I believe ABARCA was referring to a sex toy he purchased for V-1.

f. On February 6, 2022, ABARCA told V-1, "The fact you're young too is just stupid hot :)))."

CONSENSUAL INTERVIEW OF ABARCA

11. On July 21, 2022, OCSD investigators spoke to ABARCA in front of his residence in Buena Park, California. An investigator explained to ABARCA that he did not need to speak with investigators and that he was free to leave at any time. Investigators also ensured he had a clear path to walk to the front door of his residence. The interview was audio and video recorded on an OCSD body-worn camera.

12. ABARCA told investigators he originally met V-1 through Reddit, an online forum where users can communicate privately through private messages and Reddit's "chat" feature. ABARCA stated he and V-1 eventually began communicating through Discord. ABARCA stated he had sexual intercourse with V-1 two times. ABARCA's statements regarding each incident are summarized below:

a. Incident 1: V-1 snuck out of her house and entered ABARCA's vehicle. ABARCA drove V-1 to a nearby

marina, at which point he and V-1 both got into the back seat of his vehicle. ABARCA attempted to have anal sex with V-1 by putting lubricant on his penis and inserting it into her anus. After V-1 told ABARCA it hurt, ABARCA pulled out his penis. V-1 orally copulated ABARCA, and they had sex while ABARCA was wearing a condom.

b. Incident 2: ABARCA arranged to meet V-1 at her house after talking to her through Discord. After V-1 snuck out of her residence and entered ABARCA's vehicle, ABARCA drove her to the marina. ABARCA and V-1 then had sex in the back seat of ABARCA's car.

13. ABARCA stated V-1 asked him to buy her a "butt plug" with an attached animal tail. ABARCA told investigators he purchased the item and brought it to Incident 1 with V-1. ABARCA stated V-1 inserted the item into her anus during Incident 1. ABARCA subsequently requested to speak with investigators at a different location, at which point they handcuffed him and transported him to OCSD headquarters.

MIRANDIZED INTERVIEW OF ABARCA

14. Once at OCSD headquarters, investigators continued their interview of ABARCA after removing the handcuffs and reading him the Miranda advisement. ABARCA agreed to continue the post-Miranda interview.

15. ABARCA reiterated he met V-1 through Reddit and eventually began chatting with her through Discord. ABARCA identified his Discord username as "Gungi." ABARCA again stated he and V-1 arranged to meet in person through Discord.

16. ABARCA stated he believed V-1 needed to sneak out of her residence to meet with him because she was a minor. During the interview, an investigator read to ABARCA a portion of the Discord conversation between him and V-1 from February 1, 2022, where V-1 told ABARCA she was 16 years old. ABARCA stated he knew having sex with a minor was illegal and acknowledged taking part in the Discord conversation.

17. In the post-Miranda interview, ABARCA described two incidents where he and V-1 had sex.¹ ABARCA's statements regarding the incidents are summarized below:

a. Post-Miranda Incident 1: After V-1 snuck out of her residence, ABARCA drove V-1 to the nearby boat marina and had sex with her in the back seat of his vehicle. ABARCA stated he used a condom during the sexual intercourse and ejaculated inside the condom during the intercourse.

b. Post-Miranda Incident 2: About a week later, V-1 again snuck out of her residence. ABARCA drove V-1 to the same marina, where V-1 orally copulated ABARCA while they were in the back seat of ABARCA's vehicle. ABARCA then attempted to have anal sex with V-1, but stopped after she told him it hurt. ABARCA subsequently had unprotected sex with V-1, then provided some sort of birth control pill to V-1 for her to take. ABARCA said he purchased the pill prior to meeting with V-1.

¹ I am unaware if one or both of these incidents are the same as those ABARCA described during the earlier portion of the interview.

18. ABARCA then requested investigators again read him the Miranda advisement. After an investigator did so, ABARCA asked to speak with an attorney. Investigators then stopped the interview and booked ABARCA into OCSD's jail for violating multiple state offenses.

19. The sexual activity referenced throughout this affidavit violated multiple laws of California, where both ABARCA and V-1 were located at the time of ABARCA's conduct. For example:

a. Under California Penal Code (PC) § 261.5(c), anyone who engages in an act of unlawful sexual intercourse with a minor who is more than three years younger than the perpetrator is guilty of either a misdemeanor or a felony. During the conduct described in this affidavit, V-1 was 16 years old and ABARCA was 21 years old.

b. Under California PC § 286(b)(1), except as provided in Section 288, any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

c. Under California PC § 287(b)(1), except as provided in Section 288, any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

VI. CONCLUSION

20. For all of the reasons described above, there is probable cause to believe that GILMAR ABARCA has committed the SUBJECT OFFENSE and that both ABARCA and V-1 were located in Orange County, California, within the Central District of California, during the commission of the SUBJECT OFFENSE.

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone on this 7 day of September 2023.



HONORABLE JOHN D. EARLY
UNITED STATES MAGISTRATE JUDGE